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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,572	11/02/2001	Malcolm M. Smith	062891.0600	9167
5073	7590	02/29/2008		
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EXAMINER JAMAL, ALEXANDER	
			ART UNIT 2614	PAPER NUMBER
			NOTIFICATION DATE 02/29/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com  
glenda.orrantia@bakerbotts.com

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/033,572  
Filing Date: November 02, 2001  
Appellant(s): SMITH, MALCOLM M.

**MAILED**

**FEB 29 2008**

**Technology Center 2600**

Charles S. Fish (35870)  
For Appellant

*Supplemental*

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 2-20-2007 appealing from the Office action mailed 9-6-2006.

Responsive to the reply brief filed on 1-14-2008, a supplemental Examiner's Answer is set forth below. The examiner notes that the appellant has resubmitted all the original arguments with responses to the examiner's answer interspersed throughout. The examiner maintains the prior responses to appellants original arguments that were cited in the Examiner's Answer filed 11-14-2007, and only responds to appellants' new arguments.

As per appellants' arguments (reply brief page 11 last paragraph) that the examiner has not shown how one of skill in the art would think to incorporate the features of Obuchi and Kondo into a single system. The examiner notes that Obuchi and Kondo both teach diversity system where incoming signals are received, and sent to a digital processing stage that performs various operations in the incoming signals and produces an output signal. The examiner contends that one of skill in the art would know that a DSP may be programmed with any sort of known signal processing algorithms (such as the diversity algorithms disclosed by both Kondo and Obuchi). The examiner notes that appellant has not disclosed any code or specific implementation of a DSP in appellant's specification (obviously because it is well known in the art how to program algorithms into a DSP). If the board is to ascertain that one of skill in the art would not know how to implement a combination of various signal selection and/or combining algorithms in a DSP of a diversity system (such as those disclosed by Kondo and Obuchi), then the examiner kindly asks the Board to consider a 112 first paragraph enablement rejection for appellants claimed system as they do not disclose the specifics of actual implementation of their claimed invention. An example of this would be the actual DSP code used to implement

'computations' (spec page 21 lines 15-20), or the performing of either of the steps of selecting or combining the received signals (in the independent claims).

As per appellant's arguments (reply brief page 13 first full paragraph) that the examiner has not shown how and where the selecting and adding/averaging (appellant refers to these as convolution encoding and majority determination) of Obuchi is implemented in Kondo. The known algorithms of Obuchi would be implemented in the same DSP of Kondo that performs Kondo's disclosed signal selecting algorithms. Again the examiner notes that the appellant is claiming that one of skill in the art would not know how to do this, yet appellant's own specification gives absolutely no DSP code or set algorithms to enable appellants claimed functions (performing of either of the steps of selecting or combining the received signals).

As per appellants arguments (reply brief page 15 last paragraph), that Obuchi does not disclose adding and averaging, the examiner notes that Obuchi does disclose adding signal portion as part of the combining process (shown in Figs. 8a and 8b). The examiner also contends that Obuchi discloses a summing and an averaging function in steps b1 and b2 of Fig. 8b.

As per appellant's arguments (page 16 first full paragraph), that Kondo does not disclose bit-by-bit processing, the examiner disagrees and notes Kondo (Col 4 lines 56-67). Appellant's comment that 'an entire frame from either base station 11 or base station 13 is still transmitted, possibly adjusted' is obvious because a bit requires a frame (to include the protocol signaling) in

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order to be transmitted between devices. Kondo clearly discloses bit by bit reconstruction in Col  
4 lines 56-67.

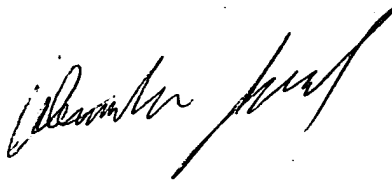
Appellant may file another reply brief in compliance with 37 CFR 41.41 within two  
months of the date of mailing of this supplemental examiner's answer. Extensions of time  
under 37 CFR 1.136(a) are not applicable to this two month time period. See 37 CFR  
41.43(b)-(c).

Any inquiry concerning this communication or earlier communications from the examiner  
should be directed to Alexander Jamal whose telephone number is 571-272-7498. The examiner  
can normally be reached on M-F 9AM-6PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,  
Curtis A Kuntz can be reached on 571-272-7499. The fax phone numbers for the organization  
where this application or proceeding is assigned are **571-273-8300** for regular communications  
and **571-273-8300** for After Final communications.

Examiner Alexander Jamal

February 18, 2008



  
CURTIS KUNTZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

  
VIVIAN CHEN  
SUPERVISORY PATENT EXAMINER